



BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

DEC 18 2014

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
PINAL COUNTY FOR APPROVAL TO MODIFY
AN EXISTING CROSSING OF THE COPPER
BASIN RAILWAY COMPANY AS PART OF THE
PROPOSED KELVIN BRIDGE REPLACEMENT
PROJECT IN PINAL COUNTY, ARIZONA,
USDOT NO. 742-396E.

DOCKET NO. RR-02636A-14-0181

DECISION NO. 74851

OPINION AND ORDER

DATE OF HEARING: September 3, 2014

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Scott M. Hesla

APPEARANCES: Mr. Seymour Gruber, Pinal County Attorney's Office,
on behalf of Pinal County Public Works; and

Ms. Bridget Humphrey and Mr. Robert Geake, Staff
Attorneys, Legal Division on behalf of the Safety
Division of the Arizona Corporation Commission.

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the
Commission finds, concludes, and orders that:

FINDINGS OF FACT

Procedural History

1. On June 6, 2014, Pinal County ("County") filed with the Arizona Corporation
Commission ("Commission") an application for approval for the Copper Basin Railway Company
("Railroad") to modify an existing at-grade crossing and construct a new grade-separated crossing as
part of the Kelvin Bridge Replacement Project near the community of Kearny, Pinal County,
Arizona, at USDOT NO. 742-396E.

2. On June 24, 2014, a Procedural Order was issued establishing various filing dates and scheduling a hearing for September 3, 2014.

3. On July 16, 2014, the County filed certification that it provided public notice in accordance with the Commission's Procedural Order.

4. On August 19, 2014, the Commission's Safety Division, Railroad Safety Section ("Staff") filed a Staff Report recommending approval of the Application.

5. On September 3, 2014, a full public hearing was convened before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The County and Staff appeared through counsel. At the conclusion of the hearing, the matter was taken under advisement pending the submission of a Recommended Opinion and Order to the Commission.

The County's Application

6. In its Application, the County is seeking Commission approval to: (1) close an existing at-grade crossing to vehicular traffic and convert it into a pedestrian/equestrian only crossing; and (2) construct a new grade-separated crossing for vehicular traffic over the Railroad's tracks. The proposed upgrades will take place along the Florence-Kelvin Highway near the Gila River as part of the Kelvin Bridge Replacement Project. The Kelvin Bridge is located approximately 200 feet south of the existing at-grade crossing.

7. The existing at-grade crossing consists of one northbound through lane and one southbound through lane and is currently equipped with automatic gates, flashing lights, and bells. The proposed upgrades consist of removing the existing crossing signals and installing a pedestrian/equestrian maze and a new crossing surface. Additionally, the County will construct a new grade-separated crossing for vehicular traffic over the Railroad's tracks. The new grade-separated crossing will run parallel to the existing at-grade crossing and will retain the same lane configuration.

8. Mr. Joe Ortiz, Project Manager for the Pinal County Public Works Department, testified in support of the Application.

9. Mr. Ortiz testified that the proposed project is needed because the Kelvin Bridge is the only viable way to cross the Gila River for the communities of Kearny, Riverside, Winkelman, and

1 Hayden, Arizona. (Tr. 8:7-13). Mr. Ortiz stated that the Kelvin Bridge was constructed in 1916 and
2 has a very narrow two lane configuration. (Tr. 12:4-6). Mr. Ortiz indicated that the new grade-
3 separated crossing will provide wider traffic lanes than the existing at-grade crossing. (Tr. 12:22-
4 13:7).

5 10. Mr. Ortiz further testified that an equestrian/pedestrian maze is a series of chain link
6 fencing positioned in a manner that will force pedestrians and equestrians to look in both directions
7 before crossing the Railroad's tracks. (Tr. 10:22-11:2). According to Mr. Ortiz, the
8 pedestrian/equestrian maze will improve the safety of the existing at-grade crossing. (Tr. 11:3-5).

9 11. Testifying further, Mr. Ortiz stated that the County expects to solicit construction bids
10 from contractors in January or February of 2015 and estimated that the proposed project will be
11 completed within eighteen months. (Tr. 13:8-15).

12 12. Mr. Brian Lehman, Supervisor of Railroad Safety for the Commission, testified that he
13 had prepared the Staff Memorandum which describes the nature of the County's proposed
14 improvements. (Tr. 16:2-8).

15 13. Mr. Lehman testified that the proposed improvements are consistent with similar
16 crossings located throughout Arizona. (Tr. 17:9-20).

17 14. Mr. Lehman further testified that the proposed grade-separated crossing is a
18 significant safety improvement because vehicular traffic will no longer be at-grade with the rail
19 traffic. (Tr. 17:9-16). According to Mr. Lehman, the proposed improvements will result in a safer
20 crossing and are in the public interest. (Tr. 18:2-4).

21 15. Staff recommends that the Application be approved. (Tr. 18:5-8).

22 16. Staff's recommendations are reasonable and appropriate and should be adopted.

23 CONCLUSIONS OF LAW

24 1. The Commission has jurisdiction over the parties and over the subject matter of the
25 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337, and
26 40-337.01.

27 2. Notice of the Application was provided in accordance with the law.

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3. The crossing upgrades described in the Application are necessary for the public's convenience and safety.

4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as recommended by Staff.

ORDER

IT IS THEREFORE ORDERED that Pinal County's Application is hereby approved.

IT IS FURTHER ORDERED that the Copper Basin Railway Company shall complete the crossing upgrades described in the Application within two years of the effective date of this Decision.

IT IS FURTHER ORDERED that the Copper Basin Railway Company shall notify the Commission, in writing, within ten days of both the commencement and completion of the crossing upgrades, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

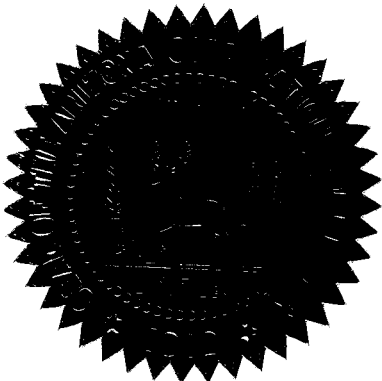
CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 18th day of December 2014.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SMH:tv

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